

REMARKS

The Official Action of December 3, 2008 and the prior art cited and relied upon therein have been carefully studied. The claims in the application are now claims 1, 4 and 5, 18-22 and these claims define patentable subject matter warranting their allowance. New claims 18-20 are directed to the osteotome per se, new claim 21 is directed to a kit with at least one starter drill and at least one osteotome and new claim 22 is directed to a starter drill. Favorable reconsideration and such allowance are respectfully urged.

Claims 7 and 8 have been canceled herein. Claims 1, 4, 5, 18-22 remain in the application for consideration.

In response to the Examiner's rejection of claims 7 and 8 under 35 U.S.C. §112, second paragraph, Applicant has cancelled claims 7-8 to eliminate the problem identified by the Examiner.

Applicant respectfully submits that the Examiner's rejection of the claims under 35 U.S.C. §112, second paragraph, has now been overcome.

The Examiner has rejected claims 1, 4 and 5 under 35 U.S.C. §103(a) as being unpatentable over Lorenzi '508 in view of Danger '616, further in view of Lazzara '499 and Misch. Applicant respectfully traverses this rejection as applied to the claims as amended.

The Examiner maintains that the osteotomes of Lorenzi have "a threaded cylindrical section". Applicant does not agree. Lorenzi provides for an osteotome

different from that as claimed, because it has a threaded section (called tapered body 11) which "tapers gradually and preferably in a straight or curved line from adjacent tip 15 to an intermediate region 16" (see para 0023 and Fig. 1 showing no cylindrical sections). As such, Lorenzi clearly does not teach both the claimed cylindrical and conical sections. As can be gleaned from the attached Webster's definitions of a cone and a cylinder, a cylinder is mathematically defined as a "surface traced by a straight line moving parallel to a fixed straight line and intersecting a fixed planar closed curve". The fixed planar closed curve may take many shapes such as an ellipse, parabola or hyperbola. A cone on the other hand is defined as a "solid bounded by a circular or other closed plane base and the surface formed by line segments joining every point of the boundary of the base to a common vertex". Thus a conical shape is not cylindrical because a straight line on the surface of a cone would not be parallel to any line connecting the vertex and base, and a cylindrical shape is not conical because it does not have a vertex.

The claimed osteotome has a conical section (8) followed by a cylindrical section (9). This is advantageous as explained in the description (page 6). The inventive osteotomes present a conical/cylindrical geometry with a progressive cross section, and as a result they act as wedges that gradually cause the crest to expand. Because of this progressive form, an excellent location is also created for the implants that have a very similar form to that given to the osteotomes. The cylindrical+conical shape makes the osteotome drill a cavity that is more similar and compatible with the implant that will be inserted later on.

New independent claims 18 and 21 also include the limitations that the osteotome has conical and cylindrical sections and should be allowable for the same reason as claim 1.

New independent claim 22 is directed to the starter drill (1) having a quadrangular-section end that is smaller in section than the osteotomes and an end for engagement to a surgical motor. The starter drill is used to pierce the hardest outer layer of a bone during oral surgery before using the osteotomes, see page 4A, first full paragraph of the specification. The Danger patent (U.S. Pat. No. 6,179,616) refers to a drill with helicoidal cutting edges, which the starter drill of the present invention does not have. The Danger drill is not meant to be used to break the outer bone layer (which is extremely hard) but to drill the bone, i.e., to deepen a cavity. In other words, it is not meant to be used at the *start* of the procedure of creating a cavity in the patient's bone but to serve as one of many other drilling tools which give the cavity its final shape.

Applicant respectfully submits that the claimed invention patentably defines over the cited prior art rejection on the basis of the structural differences identified above.

The prior art documents made of record and not relied upon have been noted along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their applications against any of applicant's claims.

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Reply to Office action of December 3, 2008

Favorable reconsideration and allowance are earnestly solicited.

Respectfully submitted,
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